

SB 6541 - H COMM AMD
By Committee on Appropriations

ADOPTED 03/03/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

4 (a) Over the past five years, Washington has received more than
5 seven hundred million dollars from the tobacco master settlement
6 agreement;

7 (b) While the state has securitized a portion of the moneys it was
8 promised under the master settlement agreement, the remainder of the
9 master settlement agreement payments is used to fund important health
10 programs such as the state's basic health plan, children's health
11 insurance, childhood vaccines, and public health;

12 (c) Litigation now pending in the state or filed in the future
13 could result in damage awards against master settlement agreement
14 signatories or their successors or affiliates that are so large that
15 the defendants could obtain a stay of the execution of the judgment
16 while they appeal only by declaring bankruptcy, rather than posting an
17 appeal bond under state law;

18 (d) Should a master settlement agreement signatory declare
19 bankruptcy, issues might be raised about whether that disrupts or
20 jeopardizes the payments that fund important state programs;

21 (e) The legislature has the substantive obligation to raise revenue
22 and to protect the financial well-being of the state and its citizens.
23 Pursuant to that obligation, it is the legislature's responsibility to
24 ensure the continued receipt of master settlement agreement funds to
25 the maximum extent possible.

26 (2) Therefore, the legislature intends to place a maximum limit on
27 the appeal bond a master settlement agreement signatory or a successor
28 or affiliate of a master settlement agreement signatory can be required
29 to post in litigation in order to stay execution of the judgment

1 without being forced into bankruptcy while it exercises its right to
2 appeal an adverse judgment.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.340 RCW
4 to read as follows:

5 (1) Except as provided in subsection (2) of this section, in order
6 to secure and protect the moneys to be received as a result of the
7 master settlement agreement in civil litigation under any legal theory
8 involving a signatory, a successor of a signatory, or any affiliate of
9 a signatory to the master settlement agreement, the supersedeas bond to
10 be furnished in order to stay the execution of the judgment during the
11 entire course of appellate review shall be set in accordance with
12 applicable laws or court rules, except that the total bond that is
13 required of all appellants collectively shall not exceed one hundred
14 million dollars, regardless of the value of the judgment.

15 (2) If an appellee proves by a preponderance of the evidence that
16 an appellant is dissipating assets outside the ordinary course of
17 business to avoid the payment of a judgment, a court may require the
18 appellant to post a bond in an amount up to the amount of the judgment.

19 NEW SECTION. **Sec. 3.** This act applies to all actions pending on
20 or filed on or after the effective date of this section."

21 Correct the title.

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